

RT-604043

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

PAULINE COINER – DEBTOR

Case No. 08-21253-KCF
Chapter 7
Adv. Proc. No. _____

LAW OFFICES OF GARY E. FOX, L.L.C.L.

Plaintiff

v.

PAULINE DILIONE, a/k/a PAULINE COINER

Defendant

COMPLAINT FOR NON-DISCHARGE ORDER

U.S. BANKRUPTCY COURT
TRENTON, NJ
FILED
08 SEP 23 PM 12:03
JAMES A. WALDRON
DEPUTY CLERK
\$ FILING FEE PAID
250.00

Plaintiff, for its complaint in this action, states as follows:

1. Plaintiff, Law Offices of Gary E. Fox, L.L.C., is a valid New Jersey Limited Liability Company with offices at 1001 Deal Road, Ocean, New Jersey 07712, with telephone number 732 493-9400.
2. Defendant is the debtor in this bankruptcy proceeding.
3. This is an action pursuant to 11 U.S.C. § 523(a)-2, 4, & 6, to the discharge of a debt owed by Defendant to Plaintiff in the amount of \$34,156.90 plus interest and costs of suit. This action is based on 11 U.S.C. § 523(a)-2, 4 and 6.
4. Attached hereto as **EXHIBIT A** is a copy of a Complaint filed in the Superior Court, Law Division of Monmouth County, setting forth the facts in support of this Complaint. Plaintiff contends that Defendant obtained services from Plaintiff based upon a false representation that Plaintiff would be paid for its

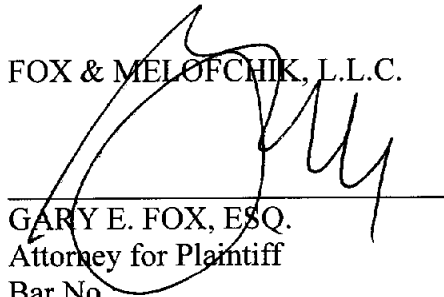
services out of a personal injury settlement. That settlement occurred and Defendant improperly directed her attorney not to honor the representation made to Plaintiff in this action. As such, pursuant to 11 U.S.C. § 523(a)-2, said debt is non-dischargeable.

5. Additionally, the obtaining of these services under false pretenses and without any intention to pay is a "theft" under New Jersey law. As such, it is non-dischargeable pursuant to 11 U.S.C. § 523(a)-4.
6. Further, Plaintiff contends that the Defendant willfully and maliciously intended to injure the Plaintiff by obtaining its services with no intention of paying for same. Said conduct prevents the discharge of this debt pursuant to 11 U.S.C. § 523(a)-6.
7. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1334(b). This is a proceeding arising under Title 11 of the United States Code.
8. This is a core proceeding under 28 U.S.C. § 157.

WHEREFORE, Plaintiff demands that a Judgment be entered declaring that the debt owed by Defendant to Plaintiff in the amount of \$34,156.90 plus interest and costs of suit is non-dischargeable.

Dated: September 23, 2008

FOX & MELOFCHIK, L.L.C.

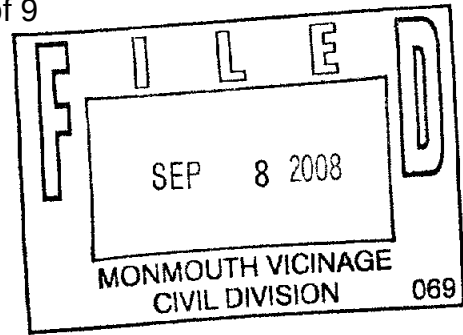


GARY E. FOX, ESQ.
Attorney for Plaintiff
Bar No. _____

1001 Deal Road
Ocean, New Jersey 07712
732 493-9400
732 493-5006 (fax)
garyfox@jerseylawoffice.com

EXHIBIT A

FOX & MELOFCHIK, LLC
Copper Gables Professional Building
1001 Deal Road
Ocean, New Jersey 07712
(732) 493-9400
Attorney



LAW OFFICES OF GARY E. FOX,
LLC and FOX & MELOFCHIK, LLC

Plaintiff(s),

Vs.

PAULINE COINER

Defendant(s).

:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION:
: MONMOUTH COUNTY
: DOCKET NO.: **L-4237-08**

:
:
: CIVIL ACTION

:
:
: COMPLAINT
:
:
:

The Plaintiff, LAW OFFICES OF GARY E. FOX, LLC is a Limited Liability Company and the Plaintiff FOX & MELOFCHIK, LLC is a Limited Liability Company and successor in interest, and as such the Plaintiff's maintain offices at the Copper Gables Professional Building, 1001 Deal Road, Ocean Township, NJ 07712, County of Monmouth, State of New Jersey by way of Complaint against the Defendants says:

FIRST COUNT

1. The Plaintiff, Law Offices of Gary E. Fox, LLC is a Limited Liability Company and as such is engaged in the practice of the Law in the State of New Jersey. The Plaintiff, Fox & Melofchik, LLC is a Limited Liability Company as such is a duly licensed to practice

Law in the State of New Jersey and is a successor in interest to the Plaintiff, Law Offices of Gary E. Fox, LLC.

2. The Defendant, Pauline Coiner retained the services of the Law Offices of Gary E. Fox, LLC to represent her interest in conjunction with the matter of Coiner vs. Coiner, Docket No.: MON-FM-13-76-06D. During the course of the litigation, the Defendant Pauline Coiner, incurred attorney's fees in the amount of \$34,156.90.
3. Demand has been made for payment by the Defendant, Pauline Coiner, on numerous occasions and payment remains outstanding.
4. By letter of December 6, 2007, the Defendant, Pauline Coiner, was placed once again on notice of the long past due balance owed to the Plaintiff and her right to submit the matter to Fee Arbitration. There has been no response to that Fee Arbitration letter to date and the time for which Defendant had to file for Fee Arbitration has long expired.

WHEREFORE, the Plaintiff demands Judgment against the Defendant, Pauline Coiner in the amount of \$35,369.71 plus costs of suit.

SECOND COUNT

1. Plaintiff hereby repeats and alleges all the allegations set forth in the First Count.
2. During the pendency of the Coiner divorce proceedings, when Ms. Coiner's outstanding balance to Plaintiff approximated \$15,000.00, Gary E. Fox, Esquire initiated a discussion with the Defendant regarding payment of the bill. Fox indicated that the law firm could not continue to represent Ms. Coiner without being paid for services then rendered to date. Ms. Coiner indicated that she was unable to pay, however, she had a pending personal injury case and promised that the law firm would be paid its entire bill out of the proceeds from that settlement so long as the firm continued to represent Ms. Coiner in the divorce litigation. As a result of that promise the law firm continued.
3. Said promise was a fraudulent misrepresentation and was an effort to obtain Plaintiff's services without any intention to pay for same.
4. The divorce was final on February 1, 2007. Thereafter, the Defendant Coiner again on numerous occasions advised Plaintiff that the entire payment of its fee would be made from the settlement in the personal injury action.
5. The Defendant, Pauline Coiner, retained the services of the Mark S. Harrison, Esquire, to represent her interest in the personal injury

lawsuit. Harrison was put on notice of Defendant's promise to Plaintiff.

6. The personal injury matter settled and Defendant directed Harrison not to disburse the funds to the Plaintiff and Defendant has failed to pay Plaintiffs as promised.
7. Defendant is guilty of "obtaining services under false pretenses."

WHEREFORE, the Plaintiff demands Judgment against Defendant, Pauline Coiner in the amount of \$34,156.91 plus costs of suit.

FOX & MELOFCHIK, LLC

Gary E. Fox, Esq.

Dated: September 4, 2008

B 104 USBC District of New Jersey ADVERSARY PROCEEDING COVER SHEET		ADVERSARY PROCEEDING NO. _____ (Court Use Only) U.S. BANKRUPTCY COURT TRENTON, NJ 08 SEP 23 PM 12:03 BY: <i>[Signature]</i> DEPUTY CLERK	
PLAINTIFFS Law Offices of Gary E. Fox, L.L.C.		DEFENDANTS Pauline Dilione a/k/a Pauline Coiner	
Attorneys (Firm Name, Address, and Telephone No.) Fox & Melofchik, L.L.C. 1001 Deal Road Ocean, NJ 07712 732 493-9400		Attorneys (If Known) James J. Carbone, Esq. 3350 Rt. 138, Suite 111 Wall, NJ 07712 732 681-6800	
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. Plaintiff <input type="checkbox"/> 2 U.S. Defendant <input checked="" type="checkbox"/> 3 U.S. Not a Party			
CAUSE OF ACTION (Write a Brief Statement of Cause of Action, including all U.S. Statutes involved) Suit objecting to discharge of \$34,156.91 debt for services obtained by a false representation, larceny and/or willful injury to Plaintiff by Def. 11 USC § 523a-2, 4 & 6.			
NATURE OF SUIT (Check the one most appropriate box only)			
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"><input type="checkbox"/> 454 To Recover Money or Property</div> <div style="width: 33%;"><input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan</div> <div style="width: 33%;"><input type="checkbox"/> 456 To obtain a declaratory judgment Relating to any of foregoing causes of action</div> <div style="width: 33%;"><input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest In Property</div> <div style="width: 33%;"><input checked="" type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523</div> <div style="width: 33%;"><input type="checkbox"/> 459 To determine a claim or cause of action removed to a Bankruptcy Court</div> <div style="width: 33%;"><input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property</div> <div style="width: 33%;"><input type="checkbox"/> 434 To obtain an injunction or other equitable relief</div> <div style="width: 33%;"><input type="checkbox"/> 498 Other (specify)</div> <div style="width: 33%;"><input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727</div> <div style="width: 33%;"><input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan</div> </div>			
ORIGIN OF PROCEEDINGS (Check one box only.)		<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated Or Reopened <input type="checkbox"/> 5 Transferred From Another Bankruptcy Court <input type="checkbox"/> Check if this is a class action under F.R.C.P. 23	
DEMAND	Nearest Thousand \$ 34,000	Other Relief Sought non-discharge order	<input type="checkbox"/> Jury Demand
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES			
Name of Debtor Pauline Dilione a/k/a Coiner		Bankruptcy case No. 08-21253-KCF	
District in which case is pending New Jersey	Divisional Office Trenton	Name of Judge Kathryn C. Ferguson	
RELATED ADVERSARY PROCEEDING (IF ANY)			
Plaintiff	Defendant	Adversary Proceeding No.	
District	Divisional Office	Name of Judge	
FILING FEE (Check one box only) <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Fee Not Required <input type="checkbox"/> Fee is Deferred			
Date 09-23-08	Print Name Gary E. Fox, Esq.	Signature of Attorney (Or Plaintiff) <i>[Signature]</i>	

Fox & Melofchik, L.L.C.
A LIMITED LIABILITY COMPANY

COPPER GABLES PROFESSIONAL BUILDING
1001 DEAL ROAD
OCEAN, NEW JERSEY 07712

GARY E. FOX, ESQ.
(garyfox@jerseylawoffice.com)
DENNIS J. MELOFCHIK, ESQ.
(dennismelofchik@jerseylawoffice.com)

TELEPHONE (732) 493-9400
FAX (732) 493-5006
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(foxandmelofchikllc@jerseylawoffice.com)

U.S. BANKRUPTCY COURT
RECEIVED
TRENTON, NJ
08 SEP 23 PM 12:06
JAMES J. WALDRON
BY: _____
DEPUTY CLERK

September 23, 2008

VIA HAND DELIVERY

United States Bankruptcy Court
District of New Jersey
Bankruptcy Clerk
402 East State Street
Trenton, New Jersey 08608

\$ FILING FEE PAID
250.00

Re: Bankruptcy of Pauline Dilione (a/k/a Pauline Coiner)
Case No.: 08-21253-KCF
Chapter 7

Dear Sir/Madam:

Enclosed herein, please find an original and one (1) copy of the following:

1. Adversary Proceeding Cover Sheet;
2. Complaint for Non-Discharge Order;
3. Summons and Notice of Pretrial Conference in an Adversary Proceeding; and
4. This firm's check in the amount of \$250.00 representing the filing fee.

Kindly file same and return a conformed copy for service, upon the debtor and debtor's attorney, in the self-addressed, stamped envelope enclosed for your convenience. Kindly provide the date, time, address and room number for the pretrial conference so that same may be inserted in the summons.

Should you have any questions, please do not hesitate to communicate with this office.

Very truly yours,

GARY E. FOX

GEF/rk
enclosures